

**Executive Summary – Enforcement Matter – Case No. 61305  
Dixie Chemical Company, Inc.  
RN100218486  
Docket No. 2021-1272-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Dixie Chemical Bayport Facility, 10601 Bay Area Boulevard, Pasadena, Harris County

**Type of Operation:**

Chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 26, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$98,100

**Amount Deferred for Expedited Settlement:** \$19,620

**Total Paid to General Revenue:** \$39,240

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$39,240

Name of SEP: Houston-Galveston Area Council-AERCO (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - High

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** June 21, 2021 through August 13, 2021

**Date(s) of NOE(s):** August 24, 2021

**Executive Summary – Enforcement Matter – Case No. 61305  
Dixie Chemical Company, Inc.  
RN100218486  
Docket No. 2021-1272-AIR-E**

***Violation Information***

Failed to maintain the net heating value of the combustion zone gas of the flare at or above 270 British thermal units per standard cubic foot ("Btu/scf") on an instantaneous basis at all times when waste is vented to the flare. Specifically, the net heating value of the combustion zone gas of the Plant A Flare was below 270 Btu/scf from September 12, 2019 at 10:53 a.m. to September 10, 2020 at 10:46 p.m. when the net heating value of the combustion zone gas ranged from 0.0 Btu/scf to 269.2 Btu/scf [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 18342, Special Conditions No. 32, Federal Operating Permit No. O3669, General Terms and Conditions and Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
  - a. Within 30 days, implement measures and/or procedures designed to ensure that the net heating value of the combustion zone gas of the Plant A Flare is maintained at or above 270 Btu/scf on an instantaneous basis at all times when waste is vented to the flare; and
  - b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 61305  
Dixie Chemical Company, Inc.  
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Docket No. 2021-1272-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Johnnie Wu, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2524; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**SEP Third-Party Administrator:** Houston-Galveston Area Council-AERCO, Emission Reduction Credit Corporation, Attn: Air Quality Program Manager, 3555 Timmons Lane, Suite 120, Houston, Texas 77027

**Respondent:** Kevin Harren, Vice President, Environmental Health & Safety, Dixie Chemical Company, Inc., 10601 Bay Area Boulevard, Pasadena, Texas 77507  
Jessica Hagewood, President, Dixie Chemical Company, Inc., 10601 Bay Area Boulevard, Pasadena, Texas 77507

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	30-Aug-2021	<b>Screening</b>	8-Sep-2021	<b>EPA Due</b>	20-Feb-2022
	<b>PCW</b>	20-Apr-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Dixie Chemical Company, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100218486
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61305	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1272-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Margarita Dennis
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$90,000
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
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<b>Compliance History</b>	9.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$8,100
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Notes: Enhancement for one NOV with dissimilar violations and one order containing a denial of liability. Reduction for one notice of intent to conduct an audit, one disclosure of violations, and High Performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$1,611  
 Estimated Cost of Compliance \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$98,100
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$98,100
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$98,100
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$19,620
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$78,480
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**Screening Date** 8-Sep-2021**Docket No.** 2021-1272-AIR-E**PCW****Respondent** Dixie Chemical Company, Inc.

Policy Revision 5 (January 28, 2021)

**Case ID No.** 61305

PCW Revision February 11, 2021

**Reg. Ent. Reference No.** RN100218486**Media** Air**Enf. Coordinator** Margarita Dennis**Compliance History Worksheet****>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	1	-2%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 19%**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%**>> Compliance History Person Classification (Subtotal 7)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%**>> Compliance History Summary****Compliance History Notes**

Enhancement for one NOV with dissimilar violations and one order containing a denial of liability. Reduction for one notice of intent to conduct an audit, one disclosure of violations, and High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 9%**>> Final Compliance History Adjustment****Final Adjustment Percentage \*capped at 100%** 9%

**Screening Date** 8-Sep-2021 **Docket No.** 2021-1272-AIR-E **PCW**  
**Respondent** Dixie Chemical Company, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61305 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100218486  
**Media** Air

**Enf. Coordinator** Margarita Dennis

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 18342, Special Conditions No. 32, Federal Operating Permit No. O3669, General Terms and Conditions and Special Terms and Conditions No. 16, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to maintain the net heating value of the combustion zone gas of the flare at or above 270 British thermal units per standard cubic foot ("Btu/scf") on an instantaneous basis at all times when waste is vented to the flare. Specifically, the net heating value of the combustion zone gas of the Plant A Flare was below 270 Btu/scf from September 12, 2019 at 10:53 a.m. to September 10, 2020 at 10:46 p.m. when the net heating value of the combustion zone gas ranged from 0.0 Btu/scf to 269.2 Btu/scf.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	30.0%
Potential					

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 12 364 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$90,000

Twelve monthly events are recommended for the period of non-compliance from September 12, 2019 to September 10, 2020.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

**Notes** The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$90,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,611

**Violation Final Penalty Total** \$98,100

**This violation Final Assessed Penalty (adjusted for limits)** \$98,100

# Economic Benefit Worksheet

**Respondent** Dixie Chemical Company, Inc.  
**Case ID No.** 61305  
**Reg. Ent. Reference No.** RN100218486  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	12-Sep-2019	1-Dec-2022	3.22	\$1,611	n/a	\$1,611

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to ensure that the net heating value of the combustion zone gas of the Plant A Flare is maintained at or above 270 Btu/scf on an instantaneous basis at all times when waste is vented to the flare. Date Required is the initial date of non-compliance. Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

**TOTAL** \$1,611

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN600129670, RN100218486, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600129670, Dixie Chemical Company, Inc. **Classification:** HIGH **Rating:** 0.08

**Regulated Entity:** RN100218486, Dixie Chemical Bayport Facility **Classification:** SATISFACTORY **Rating:** 0.12

**Complexity Points:** 24 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 10601 Bay Area Boulevard, Pasadena, Harris County, Texas 77507-1719

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

<b>AIR OPERATING PERMITS</b> PERMIT 3669	<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER HG0199M
<b>AIR NEW SOURCE PERMITS</b> PERMIT 1995	<b>AIR NEW SOURCE PERMITS</b> PERMIT 5234
<b>AIR NEW SOURCE PERMITS</b> PERMIT 6703	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 10938
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 12406	<b>AIR NEW SOURCE PERMITS</b> PERMIT 18342
<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER HG0199M	<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4820100078
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 76459	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 77257
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 78489	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 78491
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 83742	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 93567
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 51342	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 140629
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 139758	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 105712
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 109144	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 167852
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 167851	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 165439
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 166434	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 148984
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 146116	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 149316
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 149032	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 147575
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 148317	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 147285
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 145930	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 149427
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 148291	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 147885
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 148181	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 156729
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 159539	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 158283
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 155373	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 158104
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 156657	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 155362
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 158005	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 155992
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 157816	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 157153
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 153470	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 152166
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 154175	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 158080
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 158592	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 154443
<b>PETROLEUM STORAGE TANK REGISTRATION</b> REGISTRATION 35698	<b>UNDERGROUND INJECTION CONTROL</b> PERMIT 5X2600509
<b>STORMWATER</b> PERMIT TXR05AK16	<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER HG0199M
<b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P00179	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD008088247
<b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 30314	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> PERMIT 1012065

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** March 17, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 17, 2017 to March 17, 2022



**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

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## *Addendum to Compliance History Federal Enforcement Actions*

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**Reg Entity Name:** DIXIE CHEMICAL BAYPORT FACILITY

**Reg Entity Add:** 10601 BAY AREA BLVD

**Reg Entity City:** PASADENA

**Reg Entity No:** RN100218486

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**EPA Case No:** 06-2017-3344

**Order Issue Date (yyyymmdd):** 20171025

**Case Result:** Final Order With Penalty

**Statute:** CAA

**Sect of Statute:** PART63

**Classification:** Minor

**Program:** National Emission Stand

**Citation:**

**Violation Type:**

**Cite Sect:**

**Cite Part:**

**Enforcement Action:** Administrative Penalty Order With or Without Inj

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DIXIE CHEMICAL COMPANY, INC.  
RN100218486

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1272-AIR-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dixie Chemical Company, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant located at 10601 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$98,100 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$39,240 of the penalty and \$19,620 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$39,240 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

## **II. ALLEGATIONS**

During a record review conducted from June 21, 2021 through August 13, 2021, an investigator documented that the Respondent failed to maintain the net heating value of the combustion zone gas of the flare at or above 270 British thermal units per standard cubic foot ("Btu/scf") on an instantaneous basis at all times when waste is vented to the flare, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 18342, Special Conditions No. 32, Federal Operating Permit No. O3669, General Terms and Conditions and Special Terms and Conditions No. 16, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the net heating value of the combustion zone gas of the Plant A Flare was below 270 Btu/scf from September 12, 2019 at 10:53 a.m. to September 10, 2020 at 10:46 p.m. when the net heating value of the combustion zone gas ranged from 0.0 Btu/scf to 269.2 Btu/scf.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Dixie Chemical Company, Inc., Docket No. 2021-1272-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete an SEP as set forth in Section I, Paragraph No. 4. The amount of \$39,240 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, implement measures and/or procedures designed to ensure that the net heating value of the combustion zone gas of the Plant A Flare is maintained at or above 270 Btu/scf on an instantaneous basis at all times when waste is vented to the flare.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.

5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date



10/14/2022

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For the Executive Director

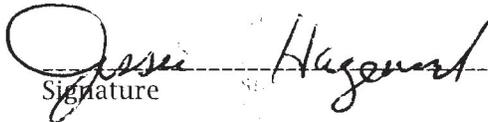
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Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

7-28-22

Date

Jessica Hagenwood

Name (Printed or typed)

President

Title

Authorized Representative of  
Dixie Chemical Company, Inc.

If mailing address has changed, please check this box and provide the new address below:

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

**Attachment A**  
**Docket Number: 2021-1272-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Dixie Chemical Company, Inc.</b>
<b>Payable Penalty Amount:</b>	<b>\$78,480</b>
<b>SEP Offset Amount:</b>	<b>\$39,240</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b>Location of SEP: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties</b>	

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency (“EPA”) emissions standards (“Old Buses”) with new, lower emission buses that meet the most recent EPA emissions standards (“New Buses”) or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities (“SEP Administrators”) that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards.

Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months.

All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
Emission Reduction Credit Corporation  
Attn: Air Quality Program Manager  
3555 Timmons Lane, Suite 120  
Houston, Texas 77027

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full

Dixie Chemical Company, Inc.  
Docket No. 2021-1272-AIR-E  
Agreed Order - Attachment A

payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.